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III. Remarks

A. Allowable Subject Matter

Applicants are grateful to the Examiner for recognizing the allowable subject matter in Claims 6 and 44-48 if the §112, ¶ 1 rejection of these claims is overcome.

B. Rejection under 35 U.S.C. §112

The Final Action rejects Claims 1, 3-6, 8-9, 12, 15-16, 36 and 41-51 as failing to comply with the written description requirement of §112, ¶ 1. The Examiner concludes there is no support for using a non-woven glass tissue layer for the reinforcing non-woven layer. Applicants have amended claims 1, 3-6, 8, 12, 44, and 46-48 to remove "tissue" therefrom. These amendments are made without prejudice, as Applicants maintain as argued below that this feature is adequately disclosed in compliance with the written description requirement. It is submitted that the rejection of these amended claims on this basis is moot.

Claims 49-50 still recite that the reinforcing layer is a non-woven tissue layer. Reconsideration of this rejection of Claims 49-50 is again requested.

In the "Examiner's Response" set forth in the September 5, 2006 Advisory Action, one of the Examiner's principle arguments in support of the written description is:

> Nowhere in the whole disclosure teaches using the same material for a nonwoven tissue layer (13) and a reinforcing web (24). In fact, throughout the original disclosure, different reference numbers are conspicuously used for the nonwoven tissue layer and the reinforcing web. (Advisory Action, Page 2).

The use of different reference numbers for the glass facing layer 13 and glass reinforcing layer 24 does not support the Examiner's position. It is an accepted convention to distinguish even features of identical construction with different reference number simply because their locations differ. This convention helps avoid confusion as to which layer is being described or referenced in the written description and does not necessarily mean that the features are not the

PAGE 11/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

same. Consider the following hypothetical. Applicants disclose a machine with parts that are held together by screws. Applicants could refer to screws in one location as "screws 13" and to screws in a second location as "screws 26" so as to allow the applicants to refer to them and their locations separately in the written description. This does not imply, however, that the screws are not the same kind of screws.

Though use of different reference numbers for layers 13 and 24 does not imply that they necessarily have different constructions, Applicants submit that use of the ***same*** reference numbers would be highly probative that the features have the same construction. Applicants submit that FIG. 6 uses the same reference numbers for both the nonwoven glass reinforcing layers and the nonwoven glass facing layers. Therefore, Applicants have expressly disclosed that the reinforcing layer and facing layer can be of the same construction. FIG. 6, which discloses a system for manufacturing the various embodiments of the insulation batt having one or more facing layers and reinforcing layers, identifies both the non-woven glass layers used for the reinforcing layers and those used for the facing layers with the same reference numeral "310." These layers are only distinguished using a letter suffix for purposes of allowing reference to an individual layer. It is submitted, therefore, that the Examiner should concede that the application discloses use of the same layer for both the reinforcing and facing layers 24, 13, which in specific embodiments is a glass non-woven tissue layer as claimed.

To further emphasize that the application as filed expressly described an invention where the non-woven facing layer and non-woven reinforcing layer have the same construction consider the claims as filed. Claims 13-14 as originally filed recited that the non-woven reinforcing layer comprised two kinds of fibers – first fibers having a high melting temperature (e.g., glass fibers) and second fibers having a lower melting temperature (e.g., polymeric fibers). This dual fiber layer was also described as being used for alternative embodiments 13a, 13b of the facing layer 13. See FIGS. 2, 2A and 2B. Clearly, Applicants contemplated that the same layer used for the non-woven facing layer could be used for the reinforcing layer. Therefore, Applicants again submit that by consistently referring to the reinforcing layer 24 as also being a

PAGE 12/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

non-woven layer comprising randomly oriented glass fibers, they contemplated that this non-woven layer 24 could be the same non-woven layer comprising randomly oriented glass fibers as the facing layer 13, which in embodiments is described as being a glass "tissue" layer.

From the description as a whole, those in the art would understand that Applicants developed a product having a glass non-woven tissue layer that could be used as a facing layer and advantageously bound to the insulation layer by the insulation layer binder in a continuous process. Specific glass non-woven tissue layers were selected and disclosed in part because of their ability to withstand the high heat of the curing oven, i.e., the heat necessary to cure the binder. As those in the art will also understand from the description, Applicants sought to also provide a reinforcing layer that would be bound to the insulation layers in the same manner, i.e., during the binder curing process. To this end, the selected reinforcing layer must withstand the high heat of the curing oven. Naturally, one of ordinary skill would understand from the description that Applicants contemplated using the non-woven glass tissue layer of the facing layer as this high-temperature resistant reinforcing layer. Indeed, FIG. 6 shows that the same layers 310 are used for both the reinforcing layer and the facing layer and are applied before curing the insulation layers.

In view of the foregoing, it is submitted that "the description clearly allow[s] persons of ordinary skill in the art to recognize that he or she invented what is claimed" in compliance with § 112, ¶1. MPEP 2163.02 (quoting *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989)).

Applicants would also like to refer the Examiner to, and incorporate by reference herein, the arguments and references to supporting description set forth in their August 14, 2006 Response in further support that the claimed invention has been described in compliance with § 112, ¶ 1.

PAGE 13/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

C. **Rejection under 35 U.S.C. §103**

The Action rejects Claims 1, 3-5, 8-9, 12, 36, 43 and 49-51 as being obvious from newly cited U.S. Patent No. 5,169,700 to Meier et al.

Independent Claim 1 has been amended to recite that the reinforcing layer is bonded between and directly to a major surface of each of the first and second insulation layers. Claim 1 has also been amended to recite that the at least one reinforcing layer bonds the insulation layers together along the major surfaces. With this amendment, it is clear that the "at least one reinforcing layer" is bonded to a major surface of both of first and second insulation layers and that in this manner the reinforcing layer acts to also bond the insulation layers together along the major surfaces.

The process of Meier is illustrated in FIG. 1. A single layer of fiber 46 is formed on a conveyor belt that carries a facing sheet 38. The fiber layer 46 is shaped and then heated in heater 32. The sheet 38 and fiber layer 46 are thereby bonded to one another, and the resulting structure is then cut to length by knife 36. The resulting product 48 is shown in FIG. 3. In the alternative embodiment shown in FIG. 8, the fiber layer 46 is provided with two facing layers 38, 54. The resulting product is shown in FIG. 5.

Turning to FIG. 4 of Meier identified by the Examiner in the Advisory Action, Meier prefers that the final product include multiple layers of insulation. (Col. 4, Lines 36-37). Therefore, Meier takes three **separate faced blankets 46** and stacks them face-to-face. The loose stock is then secured **within a wrapper or sleeve of film 50.** (Col. 38-40). The ends of the film 50 terminate at 52 and are attached to the bottom of a faced blanket 48 by stitching or heat seal. (Col. 4, Lines 40-44). The sleeve or film 50 is the only means by which the loosely stacked products are secured to one another. Further, each facing layer 38 is directly bonded to a major surface of only one insulation layer 46.

As described above, amended independent Claim 1 requires that the reinforcing layer is bonded directly to "a major surface of each of said insulation layers" and that "said at least one

PAGE 14/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

reinforcing layer bond[s] said insulation layers together." Clearly, from the description of Meier above, facing layer 38 is only directly bonded to a single insulation layer and the layer 38 in no way bonds the insulation layers together along the major surfaces.

FIG. 6 of Meier shows a product manufactured in the same manner as the product of FIG. 4, only using a stack of products as shown in FIG. 5 and with film 56 disposed on both sides of the stack to secure the insulation layers in the stack. FIG. 7 shows an embodiment where the facing sheets 54, 38 extend out beyond the insulation layers for attachment, in essence allowing layers 54 to replace the sleeve of FIGS. 4 and 6. (Col. 4, Lines 57-62). As with FIG. 4 of Meier, the products of FIGS. 6 and 7 do not include a reinforcing layer that is "disposed between and bonded directly to a major surface of each of said insulation layers and extending along a length of said batt, said at least one reinforcing layer bonding said insulation layers together along said major surfaces" as claimed in amended Claim 1.

It is submitted further that there is clearly no suggestion to bond the facing layers of Meier directly to major surfaces of multiple insulation layers. Indeed, Meier must use the sleeves or film to secure its insulation stack together for handling as a unit.

For at least these reasons, it is submitted that independent Claim 1 is not obvious from and is allowable over the cited reference. Claims 3-6, 8-9, 12, 15-16, 36, 41-43 and 51 depend from Claim 1 and are also allowable.

Claims 12 and 51 each recited that the reinforcing layer is bonded to the major surfaces of the insulation layers by the binder that binds the fibers of the insulation layers together. As the layer 38 of Meier is not bonded to the major surfaces of multiple insulation layers, Meier also does not disclose bonding a reinforcing layer to major surfaces of the insulations layers with the binder that binds the fibers of the insulations layers. Accordingly, it is submitted that Claims 12 and 51 are independently allowable.

PAGE 15/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

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Independent Claim 49 has been amended to recite that its reinforcing layer is "bonded to said major surfaces of said insulation layers at least in part with said binder, whereby said insulation layers are bonded together along said major surfaces." For reasons analogous to those set forth above in connection with Claim 1, 12 and 51, it is submitted that Claim 49 and Claim 50, which depends from Claim 49, are allowable over the cited reference.

The Action rejects Claims 15-16 and 41-42 as being obvious from Meier in view of U.S. Patent No. 5,848,509 to Knapp. These claims depend from Claim 1 and are, therefore, allowable for at least the reasons set forth above in connection with Claim 1.

Per the foregoing arguments, reconsideration and withdrawal of the obviousness rejection of the claims are respectfully requested.

PAGE 16/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

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IV. Conclusion

In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account **04-1679.**

Respectfully submitted,

Dated: 9/14/06

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PAGE 17/17 * RCVD AT 9/14/2006 3:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:2154059823 * DURATION (mm-ss):03-12

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